

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

SUSAN LANGE,

Plaintiff,

v.

**RESERVE NATIONAL INSURANCE
COMPANY,**

Defendant.

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Civil No. **06-569-JPG**

ORDER

PROUD, Magistrate Judge:

Before the court is defendant's Motion for Leave to File Amended Affirmative Defenses (**Doc. 31**). Plaintiff filed a response at **Doc. 33**. Defendant filed a reply at **Doc. 36**.

Plaintiff is suing her health insurance carrier for breach of contract and other claims arising out of defendant's refusal to pay certain medical expenses. Defendant seeks leave to amend its answer to add the affirmative defense of rescission, based on plaintiff's deposition testimony indicating that several of her answers on the application for the insurance policy were incorrect.

Leave to amend "shall be freely given when justice so requires." **Fed.R.Civ.P. 15(a)**. The court perceives that justice requires that leave be given here. The facts giving rise to the defense only became known to defendant during plaintiff's deposition. Plaintiff opposes the motion because the amendment will require more discovery. The court will permit a brief extension of time to complete discovery, but notes that the facts upon which the defense is based were known to plaintiff, if not to defendant. Further, the agent whom she alleges completed the

application was identified by her as a witness in her initial disclosures.

Upon consideration and for good cause shown, defendant's Motion for Leave to File Amended Affirmative Defenses (**Doc. 31**) is **GRANTED as follows**:

Defendant shall file its amended answer and affirmative defenses by **April 26, 2007**.

The deadline for completion of discovery is extended to **May 22, 2007**.

The deadline for filing dispositive motions is extended to **May 29, 2007**.

All other dates remain as set in **Doc. 28**.

IT IS SO ORDERED.

DATE: April 23, 2007.

s/ Clifford J. Proud
CLIFFORD J. PROUD
UNITED STATES MAGISTRATE JUDGE